

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**MARK DOUGLAS SORENSEN**  
100 Grand Avenue, #1512  
Oakland, CA 94612

**Registered Nurse License No. 515935**

Respondent

Case No. 2012-432

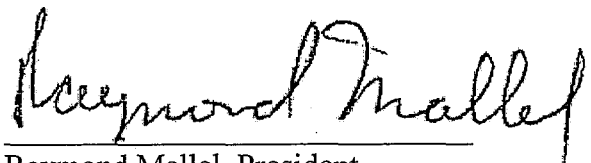
OAH No. 2012021075

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **May 3, 2013.**

IT IS SO ORDERED **April 4, 2013.**



Raymond Mallel, President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JUDITH J. LOACH  
Deputy Attorney General  
4 State Bar No. 162030  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5604  
6 Facsimile: (415) 703-5480  
E-mail: Judith.Loach@doj.ca.gov  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **MARK DOUGLAS SORENSEN**  
13 **100 Grand Avenue, # 1512**  
**Oakland, CA 94612**  
14 **Registered Nurse License No. 515935**

15 Respondent.

Case No. 2012-432

OAH No. 2012021075

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
17 entitled proceedings that the following matters are true:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Executive Officer of the Board  
20 of Registered Nursing. She brought this action solely in her official capacity and is represented in  
21 this matter by Kamala D. Harris, Attorney General of the State of California, by Judith J. Loach,  
22 Deputy Attorney General.

23 2. Respondent Mark Douglas Sorensen ("Respondent") is represented in this proceeding  
24 by attorney Scott J. Harris, Esq., whose address is: 8383 Wilshire Boulevard, Suite 830,  
25 Beverly Hills, CA 90211.

26 3. On or about September 19, 1995, the Board of Registered Nursing issued Registered  
27 Nurse License No. 515935 to Respondent. The Registered Nurse License was in full force and  
28 effect at all times relevant to the charges brought in Accusation No. 2012-432 and will expire on

1 October 31, 2013, unless renewed.

2 JURISDICTION

3 4. Amended Accusation No. 2012-432 was filed before the Board of Registered Nursing  
4 ("Board"), Department of Consumer Affairs, and is currently pending against Respondent. The  
5 Amended Accusation and all other statutorily required documents were properly served on  
6 Respondent on August 13, 2012. Respondent timely filed his Notice of Defense contesting the  
7 Accusation.

8 5. A copy of the Amended Accusation No. 2012-432 is attached as Exhibit A and  
9 incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the  
12 charges and allegations in the Amended Accusation No. 2012-432. Respondent has also carefully  
13 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
14 Disciplinary Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a  
16 hearing on the charges and allegations in the Amended Accusation; the right to be represented by  
17 counsel at his own expense; the right to confront and cross-examine the witnesses against him;  
18 the right to present evidence and to testify on his own behalf; the right to the issuance of  
19 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
20 reconsideration and court review of an adverse decision; and all other rights accorded by the  
21 California Administrative Procedure Act and other applicable laws.

22 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
23 every right set forth above.

24 CULPABILITY

25 9. Respondent admits the truth of the charges as contained in the First, Second, Fourth  
26 and Sixth Causes for Discipline in the Amended Accusation No. 2012-432. The Board dismisses  
27  
28

1 the Third Cause for Discipline in Amended Accusation No. 2012-432.<sup>1</sup>

2 10. Respondent agrees that his Registered Nurse License is subject to discipline and he  
3 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

4 CONTINGENCY

5 11. This stipulation shall be subject to approval by the Board of Registered Nursing.  
6 Respondent understands and agrees that counsel for Complainant and the staff of the Board of  
7 Registered Nursing may communicate directly with the Board regarding this stipulation and  
8 settlement, without notice to or participation by Respondent or his counsel. By signing the  
9 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
10 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
11 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
12 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
13 action between the parties, and the Board shall not be disqualified from further action by having  
14 considered this matter.

15 12. The parties understand and agree that facsimile copies of this Stipulated Settlement  
16 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
17 effect as the originals.

18 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
19 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
20 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
21 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
22 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
23 writing executed by an authorized representative of each of the parties.

24 14. In consideration of the foregoing admissions and stipulations, the parties agree that  
25 the Board may, without further notice or formal proceeding, issue and enter the following  
26 Disciplinary Order:

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28 <sup>1</sup> There was no Fifth Cause for Discipline in the Amended Accusation.

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1 practice as a registered nurse outside of California shall not apply toward a reduction of this  
2 probation time period. Respondent's probation is tolled, if and when he resides outside of  
3 California. Respondent must provide written notice to the Board within 15 days of any change of  
4 residency or practice outside the state, and within 30 days prior to re-establishing residency or  
5 returning to practice in this state.

6 Respondent shall provide a list of all states and territories where he has ever been licensed  
7 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide  
8 information regarding the status of each license and any changes in such license status during the  
9 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing  
10 license during the term of probation.

11 **5. Submit Written Reports.** Respondent, during the period of probation, shall submit  
12 or cause to be submitted such written reports/declarations and verification of actions under  
13 penalty of perjury, as required by the Board. These reports/declarations shall contain statements  
14 relative to Respondent's compliance with all the conditions of the Board's Probation Program.  
15 Respondent shall immediately execute all release of information forms as may be required by the  
16 Board or its representatives.

17 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every  
18 state and territory in which he has a registered nurse license.

19 **6. Function as a Registered Nurse.** Respondent, during the period of probation, shall  
20 engage in the practice of registered nursing in California for a minimum of 24 hours per week for  
21 6 consecutive months or as determined by the Board.

22 For purposes of compliance with the section, "engage in the practice of registered nursing"  
23 may include, when approved by the Board, volunteer work as a registered nurse, or work in any  
24 non-direct patient care position that requires licensure as a registered nurse.

25 The Board may require that advanced practice nurses engage in advanced practice nursing  
26 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

27 If Respondent has not complied with this condition during the probationary term, and  
28 Respondent has presented sufficient documentation of his good faith efforts to comply with this

1 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
2 extension of Respondent's probation period up to one year without further hearing in order to  
3 comply with this condition. During the one year extension, all original conditions of probation  
4 shall apply.

5       **7. Employment Approval and Reporting Requirements.** Respondent shall obtain  
6 prior approval from the Board before commencing or continuing any employment, paid or  
7 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
8 performance evaluations and other employment related reports as a registered nurse upon request  
9 of the Board.

10       Respondent shall provide a copy of this Decision to his employer and immediate  
11 supervisors prior to commencement of any nursing or other health care related employment.

12       In addition to the above, Respondent shall notify the Board in writing within seventy-two  
13 (72) hours after he obtains any nursing or other health care related employment. Respondent  
14 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,  
15 regardless of cause, from any nursing, or other health care related employment with a full  
16 explanation of the circumstances surrounding the termination or separation.

17       **8. Supervision.** Respondent shall obtain prior approval from the Board regarding  
18 Respondent's level of supervision and/or collaboration before commencing or continuing any  
19 employment as a registered nurse, or education and training that includes patient care.

20       Respondent shall practice only under the direct supervision of a registered nurse in good  
21 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods  
22 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are  
23 approved.

24       Respondent's level of supervision and/or collaboration may include, but is not limited to the  
25 following:

26       (a) Maximum - The individual providing supervision and/or collaboration is present in  
27 the patient care area or in any other work setting at all times.

28       (b) Moderate - The individual providing supervision and/or collaboration is in the patient

1 care unit or in any other work setting at least half the hours Respondent works.

2 (c) Minimum - The individual providing supervision and/or collaboration has person-to-  
3 person communication with Respondent at least twice during each shift worked.

4 (d) Home Health Care - If Respondent is approved to work in the home health care  
5 setting, the individual providing supervision and/or collaboration shall have person-to-person  
6 communication with Respondent as required by the Board each work day. Respondent shall  
7 maintain telephone or other telecommunication contact with the individual providing supervision  
8 and/or collaboration as required by the Board during each work day. The individual providing  
9 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to  
10 patients' homes visited by Respondent with or without Respondent present.

11 9: **Employment Limitations.** Respondent shall not work for a nurse's registry, in any  
12 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,  
13 or for an in-house nursing pool.

14 Respondent shall not work for a licensed home health agency as a visiting nurse unless the  
15 registered nursing supervision and other protections for home visits have been approved by the  
16 Board. Respondent shall not work in any other registered nursing occupation where home visits  
17 are required.

18 Respondent shall not work in any health care setting as a supervisor of registered nurses.  
19 The Board may additionally restrict Respondent from supervising licensed vocational nurses  
20 and/or unlicensed assistive personnel on a case-by-case basis.

21 Respondent shall not work as a faculty member in an approved school of nursing or as an  
22 instructor in a Board approved continuing education program.

23 Respondent shall work only on a regularly assigned, identified and predetermined  
24 worksite(s) and shall not work in a float capacity.

25 If Respondent is working or intends to work in excess of 40 hours per week, the Board may  
26 request documentation to determine whether there should be restrictions on the hours of work.

27 10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall enroll and  
28 successfully complete a course(s) relevant to the practice of registered nursing no later than six

1 months prior to the end of his probationary term.

2 Respondent shall obtain prior approval from the Board before enrolling in the course(s).

3 Respondent shall submit to the Board the original transcripts or certificates of completion for the  
4 above required course(s). The Board shall return the original documents to Respondent after  
5 photocopying them for its records.

6 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its  
7 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the  
8 amount of \$6,060.00. Respondent shall be permitted to pay these costs in a payment plan  
9 approved by the Board, with payments to be completed no later than three months prior to the end  
10 of the probation term.

11 If Respondent has not complied with this condition during the probationary term, and  
12 Respondent has presented sufficient documentation of his good faith efforts to comply with this  
13 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
14 extension of Respondent's probation period up to one year without further hearing in order to  
15 comply with this condition. During the one year extension, all original conditions of probation  
16 will apply.

17 12. **Violation of Probation.** If Respondent violates the conditions of his probation, the  
18 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order  
19 and impose the stayed discipline (revocation/suspension) of Respondent's license.

20 If during the period of probation, an accusation or petition to revoke probation has been  
21 filed against Respondent's license or the Attorney General's Office has been requested to prepare  
22 an accusation or petition to revoke probation against Respondent's license, the probationary  
23 period shall automatically be extended and shall not expire until the accusation or petition has  
24 been acted upon by the Board.

25 13. **License Surrender.** During Respondent's term of probation, if he ceases practicing  
26 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,  
27 Respondent may surrender his license to the Board. The Board reserves the right to evaluate  
28 Respondent's request and to exercise its discretion whether to grant the request, or to take any

1 other action deemed appropriate and reasonable under the circumstances, without further hearing.  
2 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be  
3 subject to the conditions of probation.

4 Surrender of Respondent's license shall be considered a disciplinary action and shall  
5 become a part of Respondent's license history with the Board. A registered nurse whose license  
6 has been surrendered may petition the Board for reinstatement no sooner than the following  
7 minimum periods from the effective date of the disciplinary decision:

8 (1) Two years for reinstatement of a license that was surrendered for any reason other  
9 than a mental or physical illness; or

10 (2) One year for a license surrendered for a mental or physical illness.

11 14. **Physical Examination.** Within 45 days of the effective date of this Decision,  
12 Respondent, at his expense, shall have a licensed physician, nurse practitioner, or physician  
13 assistant, who is approved by the Board before the assessment is performed, submit an  
14 assessment of the Respondent's physical condition and capability to perform the duties of a  
15 registered nurse, including a determination as set forth below in the condition titled "Rule-Out  
16 Substance Abuse Assessment." Such an assessment shall be submitted in a format acceptable to  
17 the Board. If medically determined, a recommended treatment program will be instituted and  
18 followed by the Respondent with the physician, nurse practitioner, or physician assistant  
19 providing written reports to the Board on forms provided by the Board.

20 If Respondent is determined to be unable to practice safely as a registered nurse, the  
21 licensed physician, nurse practitioner, or physician assistant making this determination shall  
22 immediately notify the Board and Respondent by telephone, and the Board shall request that the  
23 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall  
24 immediately cease practice and shall not resume practice until notified by the Board. During this  
25 period of suspension, Respondent shall not engage in any practice for which a license issued by  
26 the Board is required until the Board has notified Respondent that a medical determination  
27 permits Respondent to resume practice. This period of suspension will not apply to the reduction  
28 of this probationary time period.

1 If Respondent fails to have the above assessment submitted to the Board within the 45-day  
2 requirement, Respondent shall immediately cease practice and shall not resume practice until  
3 notified by the Board. This period of suspension will not apply to the reduction of this  
4 probationary time period. The Board may waive or postpone this suspension only if significant,  
5 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
6 by Respondent to obtain the assessment, and a specific date for compliance must be provided.  
7 Only one such waiver or extension may be permitted.

8 15. **Mental Health Examination.** Respondent shall, within 45 days of the effective date  
9 of this Decision, have a mental health examination including psychological testing as appropriate  
10 to determine his capability to perform the duties of a registered nurse, including a determination  
11 as set forth below in the condition titled "Rule-Out Substance Abuse Assessment." The  
12 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
13 practitioner approved by the Board. The examining mental health practitioner will submit a  
14 written report of that assessment and recommendations to the Board. All costs are the  
15 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a  
16 result of the mental health examination will be instituted and followed by Respondent.

17 If Respondent is determined to be unable to practice safely as a registered nurse, the  
18 licensed mental health care practitioner making this determination shall immediately notify the  
19 Board and Respondent by telephone, and the Board shall request that the Attorney General's  
20 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease  
21 practice and may not resume practice until notified by the Board. During this period of  
22 suspension, Respondent shall not engage in any practice for which a license issued by the Board  
23 is required, until the Board has notified Respondent that a mental health determination permits  
24 Respondent to resume practice. This period of suspension will not apply to the reduction of this  
25 probationary time period.

26 If Respondent fails to have the above assessment submitted to the Board within the 45-day  
27 requirement, Respondent shall immediately cease practice and shall not resume practice until  
28 notified by the Board. This period of suspension will not apply to the reduction of this

1 probationary time period. The Board may waive or postpone this suspension only if significant,  
2 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
3 by Respondent to obtain the assessment, and a specific date for compliance must be provided.  
4 Only one such waiver or extension may be permitted.

5       16. **Rule-Out Substance Abuse Assessment.** If the examiner conducting the physical  
6 and/or mental health examination determines that the respondent is dependent upon drugs or  
7 alcohol, or has had problems with drugs or alcohol (i.e. drug dependence in remission or alcohol  
8 dependence in remission), that might reasonably affect the safe practice of nursing, then the  
9 respondent must further comply with the following additional terms and conditions of probation:

10       A. **Participate in Treatment/Rehabilitation Program for Chemical**  
11 **Dependence.** Respondent, at his expense, shall successfully complete during the  
12 probationary period or shall have successfully completed prior to commencement  
13 of probation a Board-approved treatment/rehabilitation program of at least six  
14 months duration. As required, reports shall be submitted by the program on forms  
15 provided by the Board. If Respondent has not completed a Board-approved  
16 treatment/rehabilitation program prior to commencement of probation,  
17 Respondent, within 45 days from the effective date of the decision, shall be  
18 enrolled in a program. If a program is not successfully completed within the first  
19 nine months of probation, the Board shall consider Respondent in violation of  
20 probation.

21       Based on Board recommendation, each week Respondent shall be required  
22 to attend at least one, but no more than five 12-step recovery meetings or  
23 equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse  
24 support group as approved and directed by the Board. If a nurse support group is  
25 not available, an additional 12-step meeting or equivalent shall be added.  
26 Respondent shall submit dated and signed documentation confirming such  
27 attendance to the Board during the entire period of probation. Respondent shall  
28 continue with the recovery plan recommended by the treatment/rehabilitation

1 program or a licensed mental health examiner and/or other ongoing recovery  
2 groups.

3 **B. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent  
4 shall completely abstain from the possession, injection or consumption by any  
5 route of all controlled substances and all psychotropic (mood altering) drugs,  
6 including alcohol, except when the same are ordered by a health care professional  
7 legally authorized to do so as part of documented medical treatment. Respondent  
8 shall have sent to the Board, in writing and within fourteen (14) days, by the  
9 prescribing health professional, a report identifying the medication, dosage, the  
10 date the medication was prescribed, the Respondent's prognosis, the date the  
11 medication will no longer be required, and the effect on the recovery plan, if  
12 appropriate.

13 Respondent shall identify for the Board a single physician, nurse  
14 practitioner or physician assistant who shall be aware of Respondent's history of  
15 substance abuse and will coordinate and monitor any prescriptions for Respondent  
16 for dangerous drugs, controlled substances or mood-altering drugs. The  
17 coordinating physician, nurse practitioner, or physician assistant shall report to the  
18 Board on a quarterly basis Respondent's compliance with this condition. If any  
19 substances considered addictive have been prescribed, the report shall identify a  
20 program for the time limited use of any such substances.

21 The Board may require the single coordinating physician, nurse  
22 practitioner, or physician assistant to be a specialist in addictive medicine, or to  
23 consult with a specialist in addictive medicine.

24 **C. Submit to Tests and Samples.** Respondent, at his expense, shall  
25 participate in a random, biological fluid testing or a drug screening program which  
26 the Board approves. The length of time and frequency will be subject to approval  
27 by the Board. Respondent is responsible for keeping the Board informed of  
28 Respondent's current telephone number at all times. Respondent shall also ensure

1 that messages may be left at the telephone number when she is not available and  
2 ensure that reports are submitted directly by the testing agency to the Board, as  
3 directed. Any confirmed positive finding shall be reported immediately to the  
4 Board by the program and Respondent shall be considered in violation of  
5 probation.

6 In addition, Respondent, at any time during the period of probation, shall  
7 fully cooperate with the Board or any of its representatives, and shall, when  
8 requested, submit to such tests and samples as the Board or its representatives may  
9 require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other  
10 controlled substances.

11 If Respondent has a positive drug screen for any substance not legally  
12 authorized and not reported to the coordinating physician, nurse practitioner, or  
13 physician assistant, and the Board files a petition to revoke probation or an  
14 accusation, the Board may suspend Respondent from practice pending the final  
15 decision on the petition to revoke probation or the accusation. This period of  
16 suspension will not apply to the reduction of this probationary time period.

17 If Respondent fails to participate in a random, biological fluid testing or  
18 drug screening program within the specified time frame, Respondent shall  
19 immediately cease practice and shall not resume practice until notified by the  
20 Board. After taking into account documented evidence of mitigation, if the Board  
21 files a petition to revoke probation or an accusation, the Board may suspend  
22 Respondent from practice pending the final decision on the petition to revoke  
23 probation or the accusation. This period of suspension will not apply to the  
24 reduction of this probationary time period.

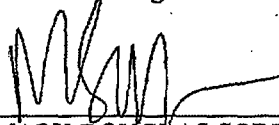
25 **D. Therapy or Counseling Program.** Respondent, at his expense, shall  
26 participate in an on-going counseling program until such time as the Board  
27 releases him from this requirement and only upon the recommendation of the  
28 counselor. Written progress reports from the counselor will be required at various

1 intervals.

2 ACCEPTANCE

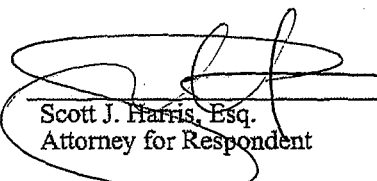
3 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
4 discussed it with my attorney, Scott J. Harris, Esq. I understand the stipulation and the effect it  
5 will have on my Registered Nurse License. I enter into this Stipulated Settlement and  
6 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
7 Decision and Order of the Board of Registered Nursing.

8  
9 DATED: 12.10.12

  
10 MARK DOUGLAS SORENSEN  
Respondent

11 I have read and fully discussed with Respondent Mark Douglas Sorensen the terms and  
12 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
13 I approve its form and content.

14 DATED: 12.11.2012

  
15 Scott J. Harris, Esq.  
Attorney for Respondent

16  
17 ENDORSEMENT

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
19 submitted for consideration by the Board of Registered Nursing of the Department of Consumer  
20 Affairs.

21  
22 Dated:

Respectfully submitted,

23 KAMALA D. HARRIS  
Attorney General of California  
24 FRANK H. PACOE  
Supervising Deputy Attorney General

25  
26 JUDITH J. LOACH  
Deputy Attorney General  
27 Attorneys for Complainant

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**Exhibit A**

**Accusation No. 2012-432**

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JUDITH J. LOACH  
Deputy Attorney General  
4 State Bar No. 162030  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5604  
6 Facsimile: (415) 703-5480  
E-mail: Judith.Loach@doj.ca.gov  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Amended Accusation  
12 Against:

13 **MARK DOUGLAS SORENSEN**  
14 **100 Grand Avenue, # 1512**  
**Oakland, CA 94612**  
**Registered Nurse License No. 515935**

15 Respondent.

Case No. 2012-432

OAH No. 2012021075

**AMENDED ACCUSATION**

17 Complainant alleges:

18 **PARTIES**

- 19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Amended Accusation  
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing.  
21 2. On or about September 19, 1995, the Board of Registered Nursing issued Registered  
22 Nurse License Number 515935 to Mark Sorensen ("Respondent"). The Registered Nurse License  
23 was in full force and effect at all times relevant to the charges brought herein and will expire on  
24 October 31, 2013, unless renewed.

25 **JURISDICTION**

- 26 3. This Amended Accusation is brought before the Board of Registered Nursing  
27 ("Board"), Department of Consumer Affairs, under the authority of the following laws. All  
28 section references are to the Business and Professions Code unless otherwise indicated.

1           4.     Section 2750 of the Business and Professions Code ("Code") provides, in pertinent  
2 part, that the Board may discipline any licensee, including a licensee holding a temporary or an  
3 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
4 Nursing Practice Act.

5           5.     Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
6 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
7 licensee or to render a decision imposing discipline on the license.

8           6.     Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
9 surrender and/or cancellation of a license shall not deprive the Board of jurisdiction to proceed  
10 with a disciplinary action during the period within which the license may be renewed, restored,  
11 reissued or reinstated.

12                               STATUTORY AND REGULATORY PROVISIONS

13           7.     Section 2761 of the Code states:

14           "The board may take disciplinary action against a certified or licensed nurse or deny an  
15 application for a certificate or license for any of the following:

16           "(a) Unprofessional conduct, which includes, but is not limited to, the following:

17           "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing  
18 functions."

19                               ....  
20           "(f) Conviction of a felony or of any offense substantially related to the qualifications,  
21 functions, and duties of a registered nurse, in which event the record of the conviction shall be  
22 conclusive evidence thereof.

23                               ..."

24           8.     California Code of Regulations, title 16, section 1442, states:

25           "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from  
26 the standard of care which, under similar circumstances, would have ordinarily been exercised by  
27 a competent registered nurse. Such an extreme departure means the repeated failure to provide  
28 nursing care as required or failure to provide care or to exercise ordinary precaution in a single

1 situation which the nurse knew, or should have known, could have jeopardized the client's health  
2 or life."

3 9. California Code of Regulations, title 16, section 1443, states:

4 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the  
5 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and  
6 exercised by a competent registered nurse as described in Section 1443.5."

7 10. California Code of Regulations, title 16, section 1443.5 states:

8 "A registered nurse shall be considered to be competent when he/she consistently  
9 demonstrates the ability to transfer scientific knowledge from social, biological and physical  
10 sciences in applying the nursing process, as follows:

11 "(1) Formulates a nursing diagnosis through observation of the client's physical condition  
12 and behavior, and through interpretation of information obtained from the client and others,  
13 including the health team.

14 "(2) Formulates a care plan, in collaboration with the client, which ensures that direct and  
15 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and  
16 for disease prevention and restorative measures.

17 "(3) Performs skills essential to the kind of nursing action to be taken, explains the health  
18 treatment to the client and family and teaches the client and family how to care for the client's  
19 health needs.

20 ...

21 "(5) Evaluates the effectiveness of the care plan through observation of the client's physical  
22 condition and behavior, signs and symptoms of illness, and reactions to treatment and through  
23 communication with the client and health team members, and modifies the plan as needed.

24 "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve  
25 health care or to change decisions or activities which are against the interests or wishes of the  
26 client, and by giving the client the opportunity to make informed decisions about health care  
27 before it is provided."

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11. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

...

"(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section."

12. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

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1 13. Code section 4022 states:

2 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-  
3 use in humans or animals, and includes the following:

4 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without  
5 prescription," "Rx only," or words of similar import.

6 (b) Any device that bears the statement: "Caution: federal law restricts this device to  
7 sale by or on the order of a -----," "Rx only," or words of similar import, the blank  
8 to be filled in with the designation of the practitioner licensed to use or order use of  
9 the device.

10 (c) Any other drug or device that by federal or state law can be lawfully dispensed  
11 only on prescription or furnished pursuant to Section 4006.

#### 12 COST RECOVERY

13 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
14 administrative law judge to direct a licentiate found to have committed a violation or violations of  
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
16 enforcement of the case.

#### 17 MEDICATIONS

18 15. Peginterferon alfa 2a ("Pegasys" or "Peg Intron") is used to treat signs of liver  
19 damage in patients with chronic (long-term) infection from hepatitis C and/or hepatitis B. It is  
20 classified as a dangerous drug pursuant to Code section 4022.

21 16. Copegus is used in conjunction with Pegasys to slow down the internal spread of the  
22 virus that causes hepatitis C. It is classified as a dangerous drug pursuant to Code section 4022.

#### 23 STATEMENT OF FACTS

24 17. At all relevant times Respondent was employed as a registered nurse in the  
25 Hematology Department at Sutter Pacific Medical Foundation ("Sutter") in San Francisco,  
26 California.

27 18. On or about August 15, 2008, Respondent ordered and dispensed pharmaceutical  
28 samples for Peg Intron and Copegus without a physicians order and/or signature. Respondent  
forged the signature of a Sutter physician on three separate pharmaceutical sample request forms  
for these medications.

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1 19. On or about August 18, 2008, Respondent forged the signature of a Sutter physician  
2 on a prescription for the ordering/dispensing and refilling of Peg Intron.

3 20. On or about October 15, 2008, Respondent without physician authorization changed  
4 the laboratory blood tests ordered for thirteen patients.

5 FIRST CAUSE FOR DISCIPLINE

6 (Gross Negligence – Ordering/Dispensing Medications Without Physician Authorization)

7 21. Respondent is subject to discipline under Code sections 2761(a)(1), 2762(a) and (e)  
8 for gross negligence as he ordered and/or dispensed pharmaceutical samples without physician  
9 authorization and forged the signature of a physician for the sample medications. The facts in  
10 support of this cause for discipline are set forth above in paragraphs 18.

11 SECOND CAUSE FOR DISCIPLINE

12 (Gross Negligence – Forging Physician Signature on Prescription)

13 22. Respondent is subject to discipline under Code sections 2761(a)(1), 2762(a) and(e)  
14 for gross negligence by forging the signature of a physician on a prescription for Peg Intron.  
15 The facts in support of this cause for discipline are set forth above in paragraphs 19.

16 THIRD CAUSE FOR DISCIPLINE

17 (Gross Negligence/Incompetence – Changing Blood Tests Ordered Without Authorization)

18 23. Respondent is subject to discipline under Code section 2761(a)(1) for gross  
19 negligence and/or incompetence in that he changed the blood tests ordered for thirteen patients,  
20 without physician authorization. The facts in support of this cause for discipline are set forth  
21 above in paragraphs 20.

22 FOURTH CAUSE FOR DISCIPLINE

23 (Criminal Conviction)

24 24. Respondent is subject to disciplinary action under sections 2761(f), 2762(c), and/or  
25 490 in that on or about July 17, 2012, in a criminal proceeding entitled *The People of the State of*  
26 *California v. Mark D. Sorensen*, Alameda County Superior Court Case No. 578796, Respondent  
27 pled no contest to a violation of Vehicle Code section 23152(b) [driving with a blood alcohol  
28 level of .08% or above], a misdemeanor. Respondent was sentenced to three (3) years probation,

1 ordered to pay a fine in the amount of \$1,833.00 and to attend a three (3) month Driving Under  
2 the Influence Program. The circumstances of the conviction were as follows:

3 a. On or about April 20, 2012, Respondent's vehicle was observed traveling at an  
4 excessive speed on Interstate 80 in Oakland. His vehicle was recorded traveling 70 miles per  
5 hour in an area with a posted speed limit of 50 miles per hour.

6 b. Respondent's vehicle was stopped by the California Highway Patrol ("CHP"). On  
7 contact, the arresting officer noticed that Respondent had a strong odor of alcohol on his breath  
8 and displayed other indicia of alcohol intoxication. He failed field sobriety testing at the scene  
9 and had a .184% and .188 % blood alcohol concentrations at 1:24 a.m., and 1:26 a.m., as  
10 measured on a Preliminary Alcohol Screening device. Respondent consented to a breath test with  
11 recorded blood alcohol levels of .16% and .16% at 2:02 and 2:04 a.m.

12 SIXTH CAUSE FOR DISCIPLINE

13 (Unprofessional Conduct – Dangerous Use of Alcohol)

14 25. Respondent is subject to disciplinary action under sections 2761(a) and/or 2762(b) in  
15 that on or about April 20, 2012, he was arrested for driving while having an blood alcohol level  
16 that was twice the legal limit as set forth above in paragraph 24.

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
19 and that following the hearing, the Department of Consumer Affairs issue a decision:

20 1. Revoking or suspending Registered Nurse License Number 515935, issued to Mark  
21 Sorensen;

22 2. Ordering Mark Sorensen to pay the Board of Registered Nursing the reasonable costs  
23 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
24 section 125.3; and

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3. Taking such other and further action as deemed necessary and proper.

DATED: August 8, 2012

*Louise R. Bailey*  
for LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
State of California  
Complainant

SF2012400901